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November 21, 2003

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Marlene Dortch, Secretary
Federal Communications Commission
The Portals
445 12th Street, S.W.
Room TW-A325
Washington, D.C. 20554

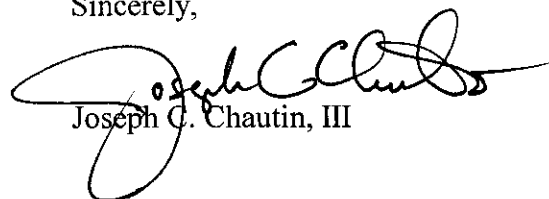
Re: FM Channel 289C2
Golden Meadow, Louisiana
Petition for Rulemaking

Dear Ms. Dortch:

Enclosed please find the original and four (4) copies of a Petition for Rulemaking filed on behalf of Providence Educational Foundation seeking to modify the FM table of Allotments to specify the above-captioned channel for noncommercial educational use. This Petition is filed pursuant to the Commission's Public Notice issued September 30, 2003 (DA 03-2990), which opened a filing window to permit noncommercial educational reservation showings for certain vacant FM allotments. In accordance with the Public Notice, an additional copy of this petition is being provided to Rolanda F. Smith in the Media Bureau's Audio Division.

Please contact the undersigned with any questions that may arise.

Sincerely,


Joseph C. Chautin, III

JCC,III:dbg
Encl.

cc: Rolanda F. Smith, Audio Division, Rm 2-B450 (by hand)
Stan Watts

11/21/03 10:44
FM-MB
03-436

ORIGINAL

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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NOV 21 2003

**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

In re:

Providence Educational Foundation

Amendment of Section 73.202(b),
FM Table of Allotments

(Golden Meadow, Louisiana)

MM Docket No.:

RM -

To: Chief, Allocations Branch, Media Bureau

PETITION FOR RULE MAKING

Pursuant to Section 1.401 of the Commission's rules, 47 C.F.R. § 1.401 (2002), Providence Educational Foundation ("PEF") hereby submits this Petition for Rule Making to amend Section 73.202(b) of the Commission's rules to reserve Channel 289C2 allocated to Golden Meadow, Louisiana for non-commercial educational ("NCE") use. PEF hereby declares that if the channel is reserved for NCE use, it will file an application for a construction permit to build a facility that provides the requisite level of NCE service on the channel, and when issued, build and operate the facility.

By Public Notice released on September 30, 2003, the Media Bureau opened a filing window to permit NCE reservation showings for certain existing but vacant FM allotments.¹

¹ See *Public Notice*, Media Bureau Opens Window to Permit Noncommercial Educational Reservation Showings for Certain Vacant FM Allotments (released September 30, 2003).

The Public Notice listed Channel 289C2 at Golden Meadow, Louisiana as an existing but vacant FM allotment for which a NCE reservation showing could be filed. This Petition is filed pursuant to that established window.

Under the Commission's relaxed standards for reserving an FM channel for NCE use, a reservation showing must satisfy two criteria. First, it must demonstrate that "maximum class facilities at the proposed allotment site would provide a first or second NCE service to at least ten percent of the population within the proposed station's service area and that such population is at least 2000 persons."² Here, the total population within the proposed station's 60 dBu service area 51,811. Maximum facilities for a Class C2 operation on Channel 289 at Golden Meadow would provide a first NCE service to 23,894 people, or 46% of the population within the 60 dBu contour of the proposed station, and a second NCE service to another 26,554 people, or 51% of the population within the 60 dBu contour. A total of 50,448 people with the proposed station's service area would therefore receive a first or second NCE service – far more than the 2000 person threshold that is required.³ Moreover, some 97% of the population within the proposed station's service area would receive a first or second NCE service – much more than the 10% that is required. Accordingly, the first criteria for reserving Channel 289C2 for NCE use is met.

In addition to meeting this first criteria, a reservation proponent must also show that it is technically precluded from using a reserved channel in the proposed community of license. To

² Reexamination of the Comparative Standards for Noncommercial Educational Applicants, MM Docket 95-31, *Second Report and Order*, 18 FCC Rcd 6691, 6704 (2003) ("NCE Second Report and Order").

³ See Exhibit A, Technical Showing.

do so, a reservation proponent must demonstrate, via a technical preclusion showing, "that a same-class reserved band facility that would provide the requisite level of new NCE service is - to a reasonable degree of certitude - technically precluded."⁴ The Commission has adopted a specific methodology that must be followed in order to presumptively establish that the allotment should be reserved for NCE use.⁵ The attached technical preclusion study precisely follows the Commission's proposed methodology and establishes that PEF is technically precluded from obtaining an authorization for a same-class rule-compliant NCE facility at Golden Meadow.⁶ Accordingly, the second criteria for reserving Channel 289C2 for NCE use is also met.

PEF respectfully submits that its petition meets the FCC's criteria and requests that Channel 289C2 at Golden Meadow, Louisiana be reserved for NCE use.

Respectfully submitted:

Providence Educational Foundation

By: 

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Its Attorneys

Dated: November 21, 2003

⁴ *Second Report and Order* at 6704.

⁵ *Second Report and Order* at 6705.

⁶ *See Exhibit A, Technical Showing.*

TECHNICAL EXHIBIT
IN SUPPORT OF
A PETITION FOR RULE MAKING
TO RESERVE FM CHANNEL 289C2
FOR NONCOMMERCIAL, EDUCATIONAL USE
AT GOLDEN MEADOW, LOUISIANA

Technical Narrative

This technical narrative and associated exhibits have been prepared in support of a Petition for Rule Making to amend Section 73.202(b) by designating the channel 289C2 allotment at Golden Meadow, Louisiana for noncommercial, educational ("NCE") use. The requested change is in accordance with the criteria established in the Second Report and Order ("Second R&O") in MM Docket No. 95-31 and is filed in response to the Public Notice (DA 03-2990) announcing an open window for such filings with respect to certain vacant FM allotments. The channel 289C2 allotment at Golden Meadow, Louisiana appears in Appendix A to the Public Notice.

Need for New NCE Service

Figure 1 demonstrates that the proposed reservation of channel 289C2 for NCE service meets the first criteria for such a reservation as established in the Second R&O. As can be seen in this figure, the 60 dBu contour for a maximum class C2 facility at the allotment reference coordinates will provide a first or second NCE FM service to 50,448 persons which is more than the minimum of 2,000 persons as established in the Second R&O and more than ten percent of the 51,811 persons within the predicted 60 dBu service area.

Technical Preclusion Showing

Based on the criteria established in the Second R&O, it can be demonstrated that the proposed reservation of channel 289C2 at Golden Meadow, Louisiana meets the Commission's criteria for a rebuttable presumption of technical preclusion since, based on these criteria, use of a non-commercial, educational, reserved-band channel for a same-class facility is precluded at Golden Meadow.



The attached Figure 2 shows the boundaries of the community of Golden Meadow along with the center point of that community, a 51-km reference circle about the center point (one km less than the class C2 reference distance of 52 km), and the four points on that reference circle used to establish the rebuttable presumption of technical preclusion. Attached as Figure 3 is a table summarizing the reasons that use of reserved-band channels is precluded at each of five points. The preclusions are based on the following assumptions:

- At the center point, the preclusion study is based on an assumed, minimum class C2 facility of 25.5 kW at 30 meters HAAT.
- At the four points on the 51-kilometer circle about Golden Meadow, the preclusion study is based on an assumed, maximum class C2 facility of 50 kW ERP at 150 m HAAT.
- Circular polarization was assumed in all cases.

Proposed Change in Table of Allotments

Accordingly, Petitioner requests modification of the FM table of allotments (47 CFR 73.202(b)) as follows:

<u>City</u>	<u>Present</u>	<u>Proposed</u>
Golden Meadow, LA	289C2	289C2*

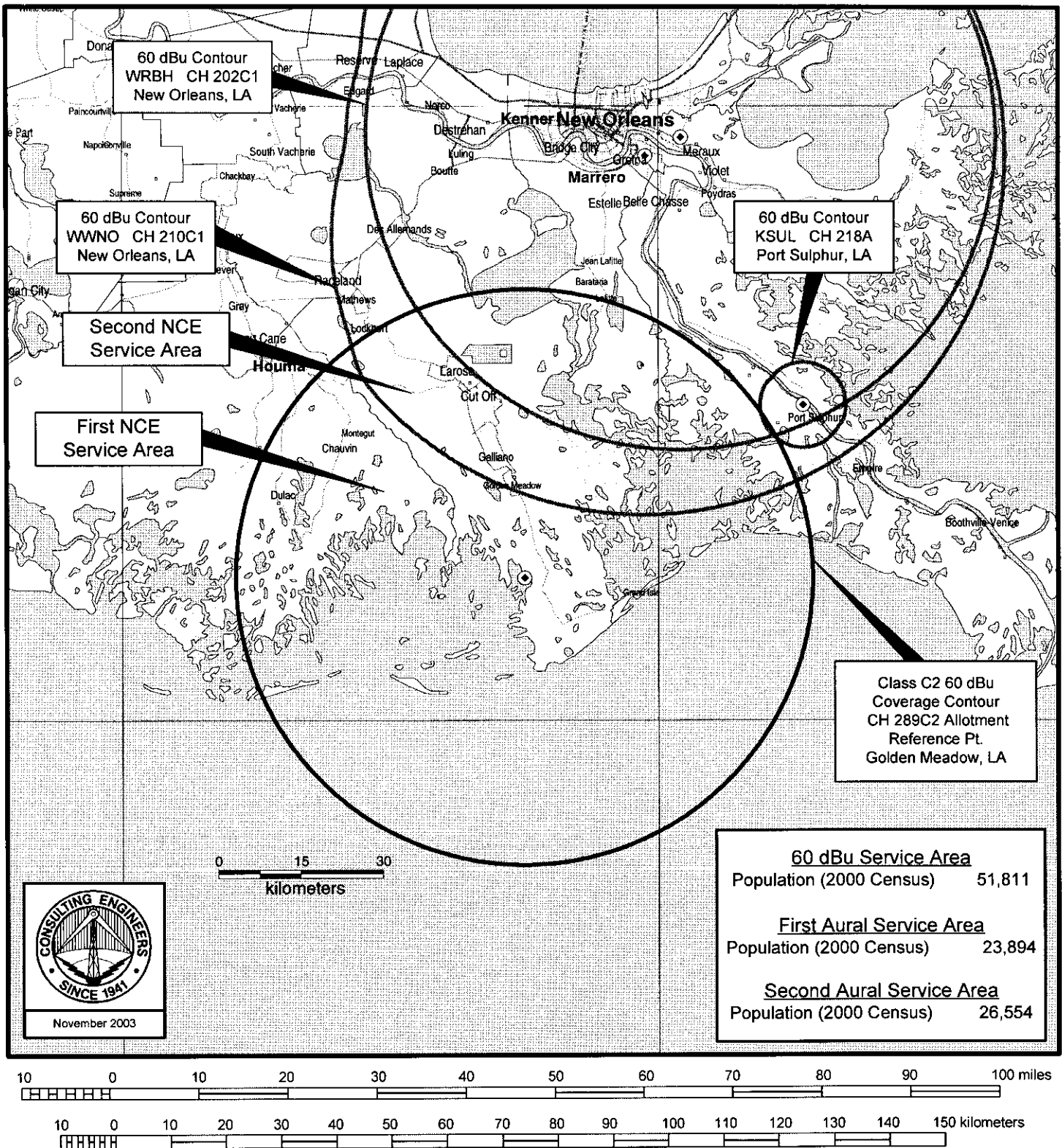
*reserved for non-commercial, educational use



David E. Dickmann

du Treil, Lundin & Rackley, Inc.
201 Fletcher Avenue
Sarasota, Florida 34237-6019
(941)329-6000

November 12, 2003

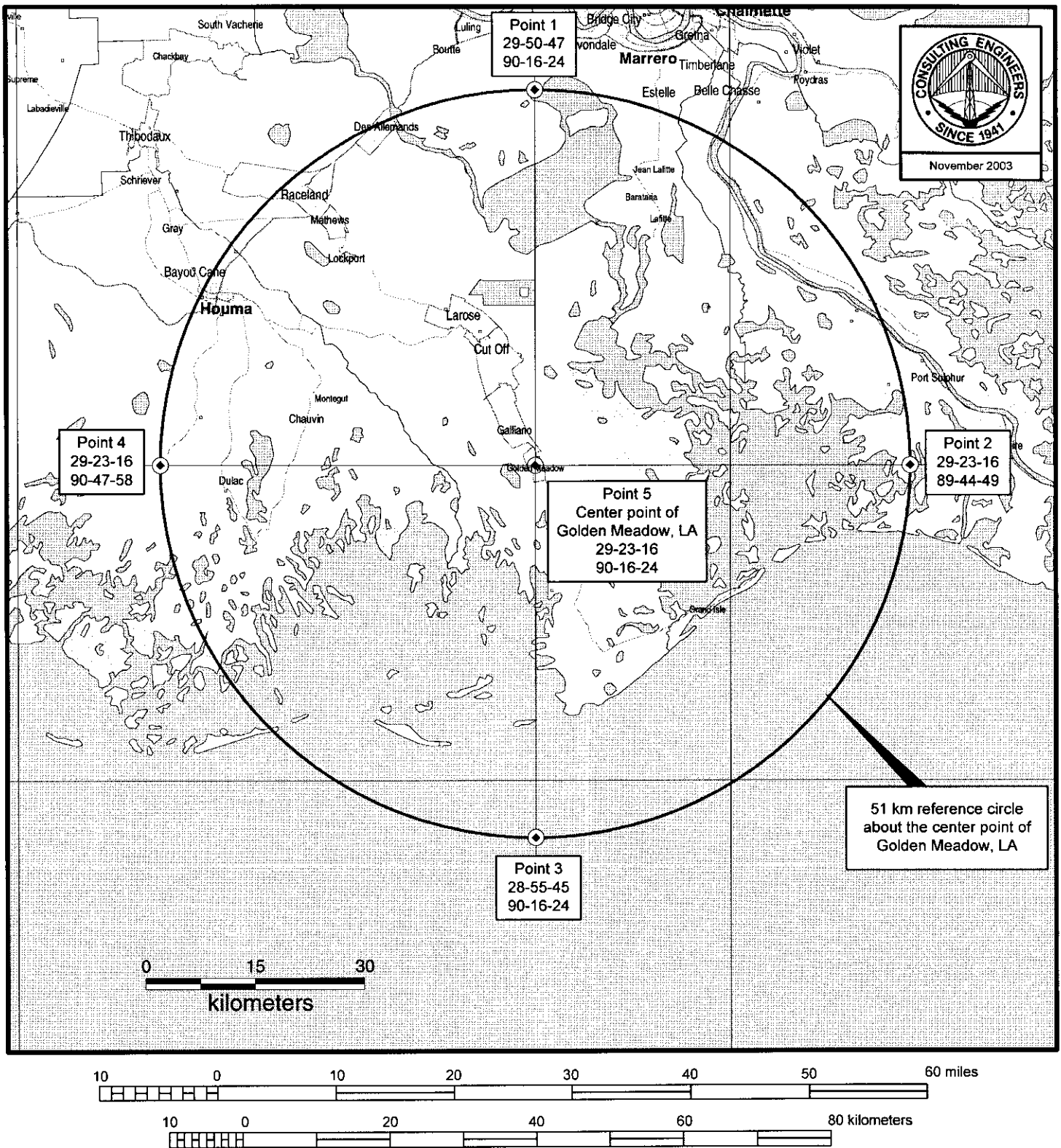


NCE FM SERVICE ANALYSIS

PROPOSED NCE RESERVATION
CHANNEL 289C2
GOLDEN MEADOW, LOUISIANA

du Treil, Lundin & Rackley, Inc. Sarasota, Florida

Figure 2



CLASS C2 REFERENCE CIRCLE

PROPOSED NCE RESERVATION
CHANNEL 289C2
GOLDEN MEADOW, LOUISIANA

du Treil, Lundin & Rackley, Inc. Sarasota, Florida

Technical Preclusion Analysis
CH 289C2 Golden Meadow, Louisiana

Reserved-Band Channel	Reason for Preclusion*									
	Point 1		Point 2		Point 3		Point 4		Point 5	
	Station	Reason	Station	Reason	Station	Reason	Station	Reason	Station	Reason
201	WRBH(FM)	60/54 dBu overlap	WRBH(FM)	60/54 dBu overlap	Point 3 is located in the Gulf of Mexico		WRBH(FM)	60/54 dBu overlap	WRBH(FM)	60/54 dBu overlap
202	WRBH(FM)	60/40 dBu overlap	WRBH(FM)	60/40 dBu overlap			WRBH(FM)	60/40 dBu overlap	WRBH(FM)	60/40 dBu overlap
203	WRBH(FM)	60/54 dBu overlap	WRBH(FM)	60/54 dBu overlap			WRBH(FM)	60/54 dBu overlap	WRBH(FM)	60/54 dBu overlap
204	WRBH(FM)	60/100 dBu overlap	WDSU(TV)	TV Channel 6 Interference			KRVS(FM)	60/40 dBu overlap	WDSU(TV)	TV Channel 6 Interference
205	WRBH(FM)	60/100 dBu overlap	WBSN(FM)	60/54 dBu overlap			WBSN(FM)	60/54 dBu overlap	WBSN(FM)	60/54 dBu overlap
206	WBSN(FM)	60/40 dBu overlap	WBSN(FM)	60/40 dBu overlap			WBSN(FM)	60/40 dBu overlap	WBSN(FM)	60/40 dBu overlap
207	WBSN(FM)	60/54 dBu overlap	WBSN(FM)	60/54 dBu overlap			WBSN(FM)	60/54 dBu overlap	WBSN(FM)	60/54 dBu overlap
208	WRKF(FM)	60/54 dBu overlap	WDSU(TV)	TV Channel 6 Interference			WRKF(FM)	60/54 dBu overlap	WWNO(FM)	60/100 dBu overlap
209	WWNO(FM)	60/54 dBu overlap	WWNO(FM)	60/54 dBu overlap			WWNO(FM)	60/54 dBu overlap	WWNO(FM)	60/54 dBu overlap
210	WWNO(FM)	60/40 dBu overlap	WWNO(FM)	60/40 dBu overlap			WWNO(FM)	60/40 dBu overlap	WWNO(FM)	60/40 dBu overlap
211	WWNO(FM)	60/54 dBu overlap	WWNO(FM)	60/54 dBu overlap			WWNO(FM)	60/54 dBu overlap	WWNO(FM)	60/54 dBu overlap
212	WWNO(FM)	60/100 dBu overlap	WMAH(FM)	60/40 dBu overlap			KTLN(FM)	60/54 dBu overlap	WWNO(FM)	60/100 dBu overlap
213	WWNO(FM)	60/100 dBu overlap	WWOZ(FM)	60/54 dBu overlap			KTLN(FM)	60/40 dBu overlap	WWNO(FM)	60/100 dBu overlap
214	KTLN(FM)	60/54 dBu overlap	WWOZ(FM)	60/40 dBu overlap			KTLN(FM)	60/54 dBu overlap	WWOZ(FM)	60/40 dBu overlap
215	FM APP Norco, LA	60/54 dBu overlap	WWOZ(FM)	60/54 dBu overlap			KSLU(FM)	60/40 dBu overlap	WWOZ(FM)	60/54 dBu overlap
216	FM APP Norco, LA	60/40 dBu overlap	KSUL(FM)	60/100 dBu overlap			KNSU(FM)	60/100 dBu overlap	FM APP Norco, LA	60/40 dBu overlap
217	KNSU(FM)	60/54 dBu overlap	KSUL(FM)	60/54 dBu overlap			KNSU(FM)	60/54 dBu overlap	FM APP Central, LA	60/40 dBu overlap
218	KNSU(FM)	60/40 dBu overlap	KSUL(FM)	60/40 dBu overlap			KNSU(FM)	60/40 dBu overlap	WTUL(FM)	60/40 dBu overlap
219	KNSU(FM)	60/54 dBu overlap	KSUL(FM)	60/54 dBu overlap			KNSU(FM)	60/54 dBu overlap	WCKW(FM)	Short-spaced
220	WCKW(FM)	Short-spaced	KSUL(FM)	60/100 dBu overlap			KNSU(FM)	60/100 dBu overlap	WCKW(FM)	Short-spaced

*On many of the channels at these locations use of the channel is also precluded due to interference to WDSU(TV), channel 6, New Orleans.